

A-13318

I, Sherrie Lina Wilson,
requests to close my
case # A-13318, No
explanation.

RECEIVED
JAN 07 2022
APPELLATE COURTS
OF THE
STATE OF ALASKA

Sherrie Lina Wilson
1/5/2022

FILED
JAN 05 2022
APPELLATE COURTS
OF THE
STATE OF ALASKA

1/13/22

REFUSED FOR FILING

You are currently
represented by an attorney.
Under Appellate Rule
5.8(c)(3), your attorney
must file documents
on your behalf.

Ryan Montgomery - *Deputy*
Chief Deputy Clerk

cc: R. McFarland
D. Soderstrom

Sherrie I. Wilson

3AN-09-47930R

FILED

JAN 05 2022

APPELLATE COURT
OF THE
STATE OF ALASKA

I, Sherrie I. Wilson, has
asked to close my appeals
case A-13318 in Appeals
case. I already appealed
my P.C.R. once in 2013.

Thank you

Sherrie I. Wilson
1/5/22

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

SHERRIE I. WILSON,

Petitioner,

v.

BRANDON LEE JONES,

Respondent.

Case No. 3:21-cv-00246-TMB

ORDER OF DISMISSAL

On November 4, 2021, Sherrie I. Wilson, a self-represented prisoner, filed a Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus By A Person in State Custody.¹ On November 9, 2021, a Docket Annotation was entered instructing Ms. Wilson to either pay the \$5.00 filing fee or file an Application to Waive Prepayment of the Filing Fee.² On November 15, 2021, Ms. Wilson filed a Motion to Request Immediate Release and notes that appear to reference the Local Habeas Rules.³ On November 29, Ms. Wilson paid the \$5.00 filing fee.

Ms. Wilson is in custody of the Alaska Department of Corrections at Hiland Mountain Correctional Center due to a criminal judgment in *State of Alaska v.*

¹ Docket 1.

² Docket 2.

³ Dockets 3 & 4.

Wilson, Case No. 3AN-09-04793CR.⁴ Further, the Court takes judicial notice of Ms. Wilson's post-conviction action currently before the Alaska Court of Appeals.⁵

A court must "promptly examine" a habeas petition.⁶ "If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion. . . ."⁷ Title 28 U.S.C. § 2254(b)(1)(A) requires that an "an applicant has exhausted the remedies available in the courts of the State." The exhaustion requirement of federal habeas statutes is designed to further the principle that "state courts are the principal forum for asserting federal constitutional challenges to state

⁴ Judicial notice is the "court's acceptance, for purposes of convenience and without requiring a party's proof, of a well-known and indisputable fact; the court's power to accept such a fact." BLACK'S LAW DICTIONARY (11th ed. 2019); *see also Headwaters Inc. v. U.S. Forest Service*, 399 F.3d 1047, 1051 n.3 (9th Cir. 2005) ("Materials from a proceeding in another tribunal are appropriate for judicial notice.") (internal quotation marks and citation omitted); *see also* Fed. R. Evid. 201. *State of Alaska v. Wilson*, Case No. 3AN-09-04793CR, docket entry dated May 3, 2011 ("Case Closed. Case disposed with disposition of Guilty Plea After Arraignment on 06/29/2011.") For a complete docket view of the state litigation in this matter, individuals may search Alaska state online case records at <https://records.courts.alaska.gov/>.

⁵ *Id.*; *Sherrie Wilson v. State of Alaska*, Case No. 3AN-11-08618CI; *Sherrie Wilson v. State of Alaska*, Case No. A-13318 (Awaiting Conference).

⁶ Rule 4(b), Rules Governing Section 2255 Proceedings for the United States District Courts. The same procedural rules for 28 U.S.C. § 2254 and § 2255 govern 28 U.S.C. § 2241.

⁷ *Id.*

convictions.”⁸ Federal habeas corpus review is designed only to “guard against extreme malfunctions in the state criminal justice systems[.]”⁹

To satisfy the exhaustion requirement, a “prisoner must ‘fairly present’ his claim in each appropriate state court, including a state supreme court with powers of discretionary review; thereby, alerting that court to the federal nature of the claim.”¹⁰ To “fully and fairly present” a federal claim, a petitioner must first present both (1) the facts that entitle the petitioner to relief and (2) the specific federal constitutional legal theory on which his or her claim is based, to each appropriate state court, including a state supreme court with powers of discretionary review.¹¹

Ms. Wilson’s post-conviction action remains pending before the Alaska Court of Appeals. Furthermore, the Alaska Supreme Court has not issued a decision on that action. If that action is remanded to a lower court, Ms. Wilson

⁸ *Harrington v. Richter*, 562 U.S. 86, 103 (2011); 28 U.S.C. §§ 2254(b), (c).

⁹ *Harrington*, 562 U.S. at 102-03 (quoting *Jackson v. Virginia*, 443 U.S. 307, 332 n.5 (1979) (Stevens, J., concurring)).

¹⁰ *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (citations omitted) In Alaska, a criminal defendant may request discretionary review by the Alaska Supreme Court. See Alaska Statutes §§ 22.05.010, 22.07.020, and 22.07.030; Alaska Rules of Appellate Procedure 215, 301, and 302.

¹¹ *Woods v. Sinclair*, 764 F.3d 1109, 1129 (9th Cir. 2014); *Baldwin*, 541 U.S. at 29 (citations omitted).

must again, fully and timely, repeat the process of state court appeals in order to fully exhaust her state court remedies.

Accordingly, Ms. Wilson has not exhausted her available state court remedies and the Petition must be dismissed.

IT IS THEREFORE ORDERED:

1. The Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus at Docket 1 is **DISMISSED WITHOUT PREJUDICE**.
2. All pending motions are **DENIED AS MOOT**.
3. The Clerk of Court shall enter a final judgment.
4. A Certificate of Appealability shall not issue.

DATED this 30th day of December, 2021, at Anchorage, Alaska.

/s/ Timothy M. Burgess
TIMOTHY M. BURGESS
UNITED STATES DISTRICT JUDGE